

MONTANA LEGISLATIVE HISTORY

Chapter 378 19 89

Bill H _____ S 355 Original bill & history ✓ C

H. Committee on Hwy & Trans.

Hearing Date(s) Mar 14 ✓ C

_____ C

_____ C

_____ C

Date Out Mar 15 ✓ C

S. Committee on Hwy & Trans.

Hearing Date(s) Feb 11 ✓ C

Feb 14 ✓ C

_____ C

_____ C

Feb 15 ✓ C

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____

Report _____

SENATE FINAL STATUS

2/21	3RD READING PASSED	49	1
	TRANSMITTED TO HOUSE		
2/22	REFERRED TO JUDICIARY		
3/16	HEARING		
3/21	COMMITTEE REPORT--BILL CONCURRED		
3/27	2ND READING CONCURRED	77	20
3/29	3RD READING CONCURRED	78	19
	RETURNED TO SENATE		
3/31	SIGNED BY PRESIDENT		
3/31	SIGNED BY SPEAKER		
3/31	TRANSMITTED TO GOVERNOR		
4/05	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 455	EFFECTIVE DATE:	7/01/89

SB 354 INTRODUCED BY BECK, ET AL.
 REQUIRE DEPARTMENT OF ADMINISTRATION TO CONTRACT
 FOR PRINTING OF PUBLIC DOCUMENTS

2/06	INTRODUCED
2/06	REFERRED TO BUSINESS & INDUSTRY
2/07	FISCAL NOTE REQUESTED
2/09	HEARING
2/14	FISCAL NOTE RECEIVED
2/15	FISCAL NOTE PRINTED
	DIED IN COMMITTEE

SB 355 INTRODUCED BY FARRELL
 REVISE COMMERCIAL MOTOR VEHICLE OPERATOR'S
 ENDORSEMENTS TO COMPLY WITH FEDERAL
 REGULATIONS
 BY REQUEST OF DEPARTMENT OF JUSTICE

2/06	INTRODUCED		
2/06	REFERRED TO HIGHWAYS & TRANSPORTATION		
2/11	HEARING		
2/15	COMMITTEE REPORT--BILL PASSED AS AMENDED		
2/17	2ND READING PASSED	30	0
2/20	3RD READING PASSED	49	1

	TRANSMITTED TO HOUSE		
2/21	REFERRED TO HIGHWAYS & TRANSPORTATION		
3/09	HEARING		
3/14	HEARING		
3/15	COMMITTEE REPORT--BILL CONCURRED		
3/18	2ND READING CONCURRED	89	1
3/20	3RD READING CONCURRED	96	1

	RETURNED TO SENATE		
3/27	SIGNED BY PRESIDENT		
3/27	SIGNED BY SPEAKER		
3/28	TRANSMITTED TO GOVERNOR		
3/29	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 378	EFFECTIVE DATE:	10/01/89

SB 356 INTRODUCED BY MAZUREK, ET AL.
 EXPAND "VETERAN" DEFINITION TO INCLUDE "FORCE" AND
 MERCHANT MARINES

SENATE BILL NO. 355

INTRODUCED BY FARRELL

BY REQUEST OF THE DEPARTMENT OF JUSTICE

IN THE SENATE

FEBRUARY 6, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON HIGHWAYS & TRANSPORTATION.
	FIRST READING.
FEBRUARY 15, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 16, 1989	PRINTING REPORT.
FEBRUARY 17, 1989	SECOND READING, DO PASS.
FEBRUARY 18, 1989	ENGROSSING REPORT.
FEBRUARY 20, 1989	THIRD READING, PASSED. AYES, 49; NOES, 1.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 21, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON HIGHWAYS & TRANSPORTATION.
	FIRST READING.
MARCH 15, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 18, 1989	SECOND READING, CONCURRED IN.
MARCH 20, 1989	THIRD READING, CONCURRED IN. AYES, 96; NOES, 1.
	RETURNED TO SENATE.

MARCH 21, 1989

IN THE SENATE

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Spahr* BILL NO. *355*
2 INTRODUCED BY *Furness*
3 BY REQUEST OF THE DEPARTMENT OF JUSTICE
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT GOVERNING THE ISSUANCE
6 AND USE OF COMMERCIAL VEHICLE OPERATOR'S ENDORSEMENTS AND
7 BRINGING MONTANA STATUTES INTO COMPLIANCE WITH FEDERAL
8 REGULATIONS; PROVIDING FOR SUSPENSION OF COMMERCIAL MOTOR
9 VEHICLE OPERATOR'S ENDORSEMENTS; PROVIDING FOR CERTAIN
10 CHEMICAL TESTS; PROVIDING FOR APPEAL; REMOVING A METHOD TO
11 OBTAIN A HAZARDOUS MATERIAL ENDORSEMENT; AND AMENDING
12 SECTIONS 61-1-134, 61-5-103, 61-5-111, 61-5-204, 61-5-208,
13 AND 61-8-405, MCA."
14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
16 NEW SECTION. **Section 1.** Purpose. (1) The purpose of
17 [this act] is to reduce the number of commercial motor
18 vehicle accidents in Montana, to provide greater safety to
19 the motoring public and others by establishing stringent
20 criteria governing the operation of commercial motor
21 vehicles, and to deny the privilege of operating commercial
22 motor vehicles upon the public streets and highways to those
23 commercial motor vehicle operators who are determined to be
24 not qualified.
25 (2) To fulfill this purpose, the legislature intends

1 that [sections 1 through 8]:
2 (a) establish criteria and procedures for the
3 operation of commercial motor vehicles that require safety
4 practices commensurate with the danger inherent to their
5 operation;
6 (b) provide for increased administrative punishment
7 for commercial motor vehicle operators who use alcohol while
8 operating commercial motor vehicles;
9 (c) provide greater control of commercial motor
10 vehicle operators using the streets and highways; and
11 (d) conform Montana's laws on commercial motor vehicle
12 operator's endorsements with federal regulations based on
13 Public Law 99-570, "Commercial Motor Vehicle Safety Act of
14 1986".
15 NEW SECTION. **Section 2.** Suspension of commercial
16 vehicle operator's endorsement -- disqualification. (1)
17 The department shall suspend the commercial vehicle
18 operator's endorsement of any commercial operator if the
19 department's records or information received from federal
20 authorities shows that the person is disqualified under
21 federal law.
22 (2) A commercial vehicle operator's endorsement
23 suspended pursuant to this section remains suspended for the
24 duration of the period of disqualification under federal
25 regulations.

(3) A person whose commercial vehicle operator's endorsement is suspended under this section due to disqualification:

(a) may appeal the suspension as provided in 61-5-211; and

(b) may not operate a commercial vehicle until the suspension is lifted and his commercial vehicle operator's endorsement is restored.

NEW SECTION. **Section 3.** Suspension of commercial vehicle operator's endorsement -- serious traffic violations. If a commercial motor vehicle operator's record shows that he has been convicted of an offense that subjects him to an accumulation of points under 61-11-203 or as provided by federal regulations, the department shall suspend the commercial vehicle operator's endorsement:

(1) for 60 days if the operator was convicted of two hazardous moving violations within 3 years; or

(2) for 120 days if the operator was convicted of three hazardous moving violations within 3 years.

NEW SECTION. **Section 4.** Suspension of commercial vehicle operator's endorsement -- felony involving a controlled substance while driving a commercial vehicle. If the department receives information that a commercial motor vehicle operator has been convicted of using a commercial motor vehicle in the commission of a felony

involving the manufacture, distribution, or dispensing of a controlled substance, as defined by federal regulations, or a felony involving possession with intent to manufacture, distribute, or dispense a controlled substance, the department shall suspend his commercial vehicle operator's endorsement for life.

NEW SECTION. **Section 5.** Suspension for operating a commercial vehicle with a blood alcohol concentration of 0.04 or more -- hearing. (1) A person whose blood alcohol concentration is 0.04 or more while he drives or is in actual physical control of a commercial motor vehicle is subject to the suspension of his commercial vehicle operator's endorsement. If the department receives a sworn report from a peace officer that the person was operating a commercial motor vehicle while his blood alcohol concentration was 0.04 or more, the department shall suspend the driver's commercial vehicle operator's endorsement:

(a) for 1 year, with no provision for a restricted probationary license or endorsement, upon receipt of the first report, except that if the offense occurred in a commercial motor vehicle transporting hazardous materials, the suspension must be for 3 years; and

(b) for 10 years, with no provision for a restricted probationary license or endorsement, upon receipt of a second or subsequent report at any time as determined from

1 the records of the department.

2 (2) A peace officer who determines that a commercial
3 motor vehicle operator's blood alcohol concentration is 0.04
4 or more shall place the commercial motor vehicle operator
5 out of service as mandated by federal regulations for 24
6 hours.

7 (3) The fact that any person charged with a violation
8 of the provisions of subsection (1) is entitled to use
9 alcohol under the laws of Montana is not a defense against
10 any charge of violating the provisions of subsection (1).

11 (4) The department shall immediately notify in writing
12 any person whose commercial vehicle operator's endorsement
13 is suspended under this section. The person suspended has
14 the right to file a petition within 30 days after the notice
15 is given for a hearing in the matter in the district court
16 in the county in which the finding of blood alcohol
17 concentration was made. The court has jurisdiction and
18 shall set the matter for hearing upon 10 days' written
19 notice to the county attorney of the county in which the
20 appeal is filed. The county attorney shall represent the
21 state. The court shall take testimony and examine the facts
22 of the case, except that the issue is limited to whether the
23 person was driving or had actual physical control of a
24 commercial motor vehicle while his blood alcohol
25 concentration was 0.04 or more. The court shall determine

1 whether the petitioner is entitled to a commercial vehicle
2 operator's endorsement or is subject to suspension as
3 provided in this section. The provisions of 61-8-404 apply
4 to any proceedings under this section.

5 NEW SECTION. **Section 6. Chemical blood, breath, or**
6 **urine tests of commercial vehicle operators -- procedure --**
7 **suspension.** (1) A person who operates a commercial motor
8 vehicle upon the ways of this state open to the public is
9 considered to have given consent, subject to the provisions
10 of 61-8-401 and [section 5], to a chemical test of his
11 blood, breath, or urine for the purpose of determining the
12 alcohol content of his blood if he is requested to submit to
13 the test by a peace officer having reasonable grounds to
14 believe the person to have been driving or in actual
15 physical control of a commercial motor vehicle upon the ways
16 of this state open to the public while his blood alcohol
17 concentration was 0.04 or more. The peace officer may
18 designate a blood, breath, or urine test to be administered.

19 (2) A person who is unconscious or who is otherwise
20 incapable of refusal is considered not to have withdrawn the
21 consent provided in subsection (1).

22 (3) If a commercial motor vehicle operator who is a
23 resident of Montana refuses upon the request of a peace
24 officer to submit to a chemical test designated by the
25 officer as provided in subsection (1), the test may not be

1 given. On behalf of the department, the officer shall
 2 immediately seize the person's driver's license showing the
 3 commercial vehicle operator's endorsement and forward the
 4 license to the department, along with a sworn report that he
 5 had reasonable grounds to believe the person had been
 6 driving or was in actual physical control of a commercial
 7 motor vehicle upon ways of this state open to the public
 8 while having a blood alcohol concentration of 0.04 or more
 9 and that the person had refused to submit to the test upon
 10 the request of the officer. Upon receipt of the report, the
 11 department shall suspend the license for a period provided
 12 in subsection (5).

13 (4) Upon seizure of a resident's driver's license
 14 showing a commercial vehicle operator's endorsement, the
 15 peace officer shall issue, on behalf of the department, a
 16 temporary driving permit without the commercial vehicle
 17 operator's endorsement. The temporary driving permit is
 18 valid for 72 hours after issuance.

19 (5) If a commercial motor vehicle operator refuses to
 20 submit to a chemical test as provided in subsection (3), the
 21 department shall suspend his commercial vehicle operator's
 22 endorsement:

23 (a) upon first refusal, for 1 year, with no provision
 24 for a restricted probationary license or endorsement, except
 25 that if the offense occurred in a commercial motor vehicle

1 transporting hazardous materials, the suspension for a first
 2 refusal must be for 3 years;

3 (b) upon a second or subsequent refusal at any time as
 4 determined from the records of the department, for 10 years,
 5 with no provision for a restricted probationary license or
 6 endorsement.

7 (6) A nonresident commercial motor vehicle operator
 8 who refuses to submit to a chemical test as provided in
 9 subsection (3) is subject to suspension by the department as
 10 provided in subsection (5) and may receive a temporary
 11 driving permit as provided in subsection (4).

12 NEW SECTION. **Section 7. Right of appeal of court.**
 13 The department shall immediately notify in writing any
 14 person whose commercial vehicle operator's endorsement has
 15 been suspended under the provisions of [section 6], and the
 16 person may, within 30 days after receipt of notification,
 17 file a petition for a hearing on the matter in the district
 18 court in the county where the person resides or in the
 19 district court in the county where the finding of refusal
 20 was made. The court has jurisdiction and shall set the
 21 matter for hearing upon 10 days' written notice to the
 22 county attorney of the county where the appeal is filed.
 23 The county attorney shall represent the state. The court
 24 shall take testimony and examine the facts of the case,
 25 except that the issue is limited to whether a peace officer

had reasonable grounds to believe the person had been driving or was in actual physical control of a commercial motor vehicle upon ways of this state open to the public while the person had a blood alcohol concentration of 0.04 or more, whether the person was ordered to submit to a test, and whether the person refused to submit to the test. The court shall determine whether the petitioner is entitled to a commercial vehicle operator's endorsement or is subject to suspension as provided in [sections 1 through 8].

NEW SECTION. Section 8. Administration of tests.
Tests required under [sections 1 through 8] must be administered as provided in 61-8-405.

Section 9. Section 61-5-103, MCA, is amended to read:

"61-5-103. Residency requirement. (1) Any person who has resided in ~~this--state~~ Montana for ~~a period exceeding~~ more than 90 days is considered to be a resident for the purpose of being licensed to operate a motor vehicle and must thereafter be licensed under the laws of ~~this--state~~ Montana before operating a motor vehicle.

(2) A person who operates a commercial motor vehicle in Montana is considered to be a resident of Montana for the purpose of being licensed to operate a commercial motor vehicle if he has resided in Montana for more than 30 days and must thereafter be licensed under the laws of Montana before operating any commercial motor vehicle."

Section 10. Section 61-5-111, MCA, is amended to read:

"61-5-111. Renewals, expirations, and fees for licenses, permits, and endorsements. (1) The department ~~shall--have~~ has authority to appoint county treasurers and other qualified officers to act as its agents for the sale of driver's licenses receipts and shall make necessary rules governing ~~such~~ sales. In those areas where the department provides driver licensing services 3 days or more a week, the department is responsible for sale of receipts and may not appoint an agent. The department, upon receipt of payment of the fees specified in this section, shall issue a driver's license to every qualifying applicant ~~qualifying therefor--a driver's license--as--applied--for~~. The license shall contain a full-face photograph of the licensee in the size and form ~~as~~ prescribed by the department, except as provided in subsection (4); a distinguishing number issued to the licensee; the full name, date of birth, residence address, and a brief description of the licensee; and either a facsimile of the signature of the licensee or a space upon which he shall write his signature in pen and ink immediately upon receipt of the license. ~~No A license shall be is not~~ valid until it ~~has--been--so~~ is signed by the licensee.

(2) (a) The department shall, when any person applies for renewal of a driver's license, test the applicant's

1 eyesight and may also in the department's discretion have
2 the applicant demonstrate his physical ability to operate
3 and to exercise ordinary and reasonable care in the
4 operation of a motor vehicle.

5 (b) In the case of commercial vehicle operator's
6 endorsements, the department may also require that the
7 applicant successfully complete a written examination as
8 required by federal regulations.

9 (c) A person shall-be is considered to have applied
10 for renewal of a Montana driver's license if the application
11 is made within 3 months of the expiration of his license.

12 (3) Licenses--shall--expire A license expires on the
13 anniversary of the date of birth of the licensee 4 years or
14 less after the date of issue.

15 (4) A license issued to a person under the age of 21
16 years must contain a photograph of the licensee's profile.

17 (5) Whenever the department issues an original license
18 to a person under the age of 18 years, the license shall be
19 designated and clearly marked as a "provisional license".
20 Any license so designated and marked as provisional may be
21 suspended by the department for a period of not more than 12
22 months, when its records disclose that the licensee,
23 subsequent to the issuance of such license, has been guilty
24 of careless or negligent driving. Upon renewal the
25 department may, for any reasonable cause as shown by its

1 records, designate the renewal of the license as
2 provisional; otherwise, a license in usual form ~~shall~~ must
3 be issued subject to other provisions of the laws of
4 Montana.

5 (6) It ~~shall-be~~ is unlawful for any person to have in
6 his possession or under his control more than one Montana
7 driver's license at any one time. A license is not valid for
8 the operation of a motorcycle or quadricycle until the
9 holder thereof has completed the requirements of 61-5-110
10 and the license has been clearly marked with the words
11 "motorcycle endorsement". A license is not valid for the
12 operation of a commercial vehicle until the holder thereof
13 has completed the requirements of 61-5-110 and the license
14 has been clearly marked with the words "commercial vehicle
15 operator's endorsement".

16 (7) Fees for driver's licenses ~~shall--be--as--follows~~
17 are:

18 (a) driver's license -- \$3 per year or fraction
19 thereof;

20 (b) motorcycle endorsement -- 50 cents per year or
21 fraction thereof;

22 (c) commercial vehicle operator's endorsement:

23 (i) interstate -- \$3 per year or fraction thereof;

24 (ii) intrastate -- \$1.50 per year or fraction thereof.

25 (8) A license designated as a chauffeur's license as

1 of January 1, 1988, is valid as a commercial vehicle
2 operator's endorsement until the expiration of the license.

3 ~~(9) On--or--after--January--17--1988--if--the~~ The holder of
4 a chauffeur's license wishes to may convert his chauffeur's
5 license to a commercial vehicle operator's endorsement, ~~he~~
6 ~~may--do--so~~ by paying the appropriate fee covering the
7 remainder of the life of his license and complying with the
8 requirements established by the department.

9 (10) ~~After--January--17--1988--the~~ The holder of a valid
10 chauffeur's license who is renewing and wishes to obtain a
11 commercial vehicle operator's endorsement may do so upon
12 paying the appropriate fees and complying with the
13 requirements established by the department.

14 ~~{11}--After--January--17--1988--the--holder--of--a--valid~~
15 ~~operator's,--chauffeur's,--or--driver's--license--may--obtain--a~~
16 ~~hazardous-material-endorsement-by-successfully-completing--a~~
17 ~~written-examination."~~

18 **Section 11.** Section 61-1-134, MCA, is amended to read:

19 "61-1-134. Commercial motor vehicle defined --
20 exceptions. (1) "Commercial motor vehicle" means a motor
21 vehicle used to transport passengers or property if the
22 vehicle:

23 (a) has a gross vehicle weight of 26,001 pounds or
24 more;

25 (b) is designed to transport more than 15 passengers,

1 including the driver; or

2 (c) is used to transport hazardous material.

3 (2) Vehicles operated within the state of Montana
4 which that are registered as paying the 16% gross weight fee
5 under 61-10-206 are not commercial motor vehicles under this
6 section.

7 (3) Vehicles that are operated within the state of
8 Montana by farmers or persons employed by farmers who are
9 transporting farm products or farm supplies and that are
10 operated within 150 miles of the farm headquarters are not
11 considered commercial motor vehicles under this section."

12 **Section 12.** Section 61-5-204, MCA, is amended to read:

13 "61-5-204. Suspending resident's license upon
14 conviction in another state. The department is authorized to
15 suspend or revoke the driver's license and commercial
16 vehicle operator's endorsement or just the commercial
17 vehicle operator's endorsement of any resident of this state
18 or the privilege of a nonresident to drive a motor vehicle
19 in this state upon receiving notice of the conviction of
20 such the person in another state jurisdiction of an offense
21 therein in that jurisdiction which, if committed in this
22 state, would be grounds for the suspension or revocation of
23 the driver's license or commercial vehicle operator's
24 endorsement."

25 **Section 13.** Section 61-5-208, MCA, is amended to read:

1 "61-5-208. Period of suspension or revocation. (1) The
2 department may not suspend or revoke a driver's license,
3 commercial vehicle operator's endorsement, or privilege to
4 drive a motor vehicle on the public highways for a period of
5 more than 1 year, except as permitted under 61-5-207,
6 61-5-212, 61-6-123, and 61-11-211, and sections 3 through
7 5].

8 (2) Any A person whose license, commercial vehicle
9 operator's endorsement, or privilege to drive a motor
10 vehicle on the public highways has been suspended or revoked
11 is not entitled to have ~~such the~~ license, endorsement, or
12 privilege renewed or restored unless the revocation was for
13 a cause which has been removed, except that after the
14 expiration of the period of ~~such the~~ revocation or
15 suspension, the person may make application for a new
16 license or endorsement as provided by law but the department
17 may not then issue a new license or endorsement unless and
18 until it is satisfied, after investigation of the driving
19 ability of the person and upon a showing by its records or
20 other sufficient evidence, that the person is eligible to be
21 licensed to drive in ~~this-state~~ Montana. When any person is
22 convicted or forfeits bail or collateral not vacated for the
23 offense of operating or being in actual physical control of
24 a motor vehicle while under the influence of alcohol or any
25 drug or a combination thereof or for the offense of

1 operation of a motor vehicle by a person with alcohol
2 concentration of 0.10 or more, the department shall, upon
3 receiving a report of such conviction or forfeiture of bail
4 or collateral not vacated, suspend the license, including
5 any commercial vehicle operator's endorsement, or driving
6 privilege of the person for a period of 6 months. Upon
7 receiving a report of a conviction or forfeiture of bail or
8 collateral for a second, third, or subsequent offense within
9 5 years of the first offense, the department shall revoke
10 the license, including any commercial vehicle operator's
11 endorsement, or driving privilege of the person for a period
12 of 1 year.

13 (3) The period for all revocations made mandatory by
14 61-5-205 ~~shall be~~ is 1 year except as provided in subsection
15 (2) ~~of this section~~.

16 (4) The period of revocation for any person convicted
17 of any offense which makes mandatory the revocation of the
18 driver's license commences from date of conviction or
19 forfeiture of bail."

20 **Section 14.** Section 61-8-405, MCA, is amended to read:

21 "61-8-405. Administration of tests. (1) Only a
22 physician or registered nurse or other qualified person
23 under the supervision and direction of a physician or
24 registered nurse acting at the request of a peace officer
25 may withdraw blood for the purpose of determining the

1 alcoholic content therein. This limitation ~~shall~~ does not
2 apply to the taking of breath or urine specimens.

3 (2) The person tested may, at his own expense, have a
4 physician or registered nurse of his own choosing administer
5 a test, in addition to any administered at the direction of
6 a peace officer, for the purpose of determining the amount
7 of alcohol in his blood at the time alleged as shown by
8 chemical analysis of his blood, breath, or urine. The
9 failure or inability to obtain an additional test by a
10 person ~~shall~~ does not preclude the admissibility in evidence
11 of the test taken at the direction of a peace officer.

12 (3) Upon the request of the person tested, full
13 information concerning the test taken at the direction of
14 the peace officer ~~shall~~ must be made available to him or his
15 attorney.

16 (4) No physician or registered nurse or other
17 qualified person under the supervision and direction of a
18 physician or registered nurse shall incur any civil or
19 criminal liability as a result of the proper administering
20 of a blood test when requested in writing by a peace officer
21 to administer such a test.

22 (5) If the test given under 61-8-402 or [section 6] is
23 a chemical test of urine, the person tested ~~shall~~ must be
24 given such privacy in the taking of the urine specimen as
25 will insure the accuracy of the specimen and, at the same

1 time, maintain the dignity of the individual involved.

2 (6) The department of justice in cooperation with any
3 appropriate agency shall adopt uniform rules for the giving
4 of blood alcohol tests and may require certification of
5 training to administer ~~such the~~ tests as deemed considered
6 necessary."

7 NEW SECTION. **Section 15. Extension of authority.** Any
8 existing authority to make rules on the subject of the
9 provisions of [this act] is extended to the provisions of
10 [this act].

11 NEW SECTION. **Section 16. Codification instruction.**
12 [Sections 1 through 8] are intended to be codified as an
13 integral part of Title 61, chapter 8, and the provisions of
14 Title 61, chapter 8, apply to [sections 1 through 8].

-End-

CHAIRMAN TVEIT stated that the Committee would wait until Tuesday, February 14 to take Executive Action so that the Sponsor and the Highway Department could have more time to work out some amendments.

Closing by Sponsor: SENATOR MCLANE stated that he would be agreeable to work with everyone necessary. There is president on these designated routes, this route is in good shape, it had a chip seal surface put on the biggest part of it. The turnouts are there, they were used when it was part of the regular highway.

HEARING ON SENATE BILL 355

Presentation and Opening Statement by Sponsor: SENATOR FARRELL, District 31 stated that Senate Bill 355 is a result of final rules and regulations that have been adopted by the Federal Department of Transportation. He explained that they have included the specification for suspension of commercial operators, suspension of commercial operator's endorsements and have outlined those based on the Federal Rules. The Department of Motor Vehicles will have some amendments on what "hazardous driving violations" are.

List of Testifying Proponents and What Group they Represent:

Peter Funk, Assistant Attorney General, Department of Justice
Duane Tooley, Chief of the Driver's Services Bureau
Ben Havdahl, Montana Motor Carriers Association
Bob Robinson, Administrator of the Motor Vehicle Division

Testimony:

PETER FUNK, Assistant Attorney General for the Department of Justice stated that they support Senate Bill 355. Section 2 authorizes the Department to suspend a commercial vehicle operator's endorsement if there is a "disqualification under federal law". The way the Commercial Motor Vehicles system will work is there will be a central information center to record violations anywhere in the country. If someone commits a violation driving a commercial vehicle in some other location he will be disqualified under federal statute. There is an avenue of appeal for that suspension. The Department will have an amendment for Section three by Monday.

DUANE TOOLEY, Chief of the Driver's Services Bureau stated that Senate Bill 355 has the latest in federal regulations to Montana's current laws. These regulations have been in effect since July of last year. The federal law requires that by April 1, 1992 that all drivers be licensed under this mandated commercial licensing system. After that, there is one year to catch up for those states who don't make it. If Montana is not fully in compliance by April 1, 1992, we will find that we can not operate our trucks in another state that is in compliance.

BEN HAVDAHL representing the Montana Motor Carriers Association stated that they support SB 355. In 1986, over four thousand copies of tickets that the drivers got, were sent to the carriers and last year that number dropped to about twenty six hundred. The drop is an indication that this law has had the effect of getting bad drivers off the highway. He stated that they have some suggested amendments to Senate Bill 355. SEE EXHIBIT 4. The Association, as a part of the expanded safety service to the members, plans to hire a safety expert counselor on the staff of the Motor Carriers Association to provide testing.

List of Testifying Opponents and What Group They Represent:

None

Questions From Committee Members: CHAIRMAN TVEIT asked if the Department has looked at Ben Havdahl's amendments.

BOB ROBINSON, Administrator of the Motor Vehicle Division stated that they have discussed the amendments. Ben Havdahl's amendments speak to the private individual or third-party testing giving both the written and driving test. The written part of the test is expressly prohibited to be given by a third party tester in the Federal Regulations. The Federal Regulations do recognize third party testing for the driving portion. He stated that he was not sure what the Motor Carrier Association is trying to resolve, other than the concern with someone not being at the station 24 hrs per day to be testing. There are 3 commercial vehicle license examiners that are located around the state. In addition, there are supervisors in the 4 districts. If this is added in, to establish an examination for the third party examiner, the Department would have approve of them, monitor and supervise and it would have a financial impact on the Division.

Bob Robinson stated that there would be a need for approximately 1 FTE. The Department would not be in support of the proposed amendment by Ben Havdahl.

Closing by Sponsor: SENATOR FARRELL closed the hearing on Senate Bill 355.

SENATOR FARRELL took over the chair.

HEARING ON SENATE BILL 334

Presentation and Opening Statement by Sponsor: SENATOR TVEIT, District 11 informed the Committee that there is a Statement of Intent for Senate Bill 334. This bill came from a bill that is on the Minnesota statutes. It was brought in by the elevator associations trying to protect their interests of putting up big grain-holding facilities and other buildings along railroad right-of-ways and to protect their investments in such buildings.

List of Testifying Proponents and What Group they Represent:

Kim Enkerud, Montana Stock Growers Association
Representative Don Stepler, District 21
Pam Langley, Montana Grain Elevator Association and the
Montana Agricultural Business Association
Representative Linda Nelson, District 19
Dan Place, Broadwater Grain and Supply in Townsend
Steve McCullough, Northwest Potato Sales in Townsend

Testimony:

KIM ENKERUD representing the Montana Stock Growers Association and the Farm Bureau stated that many of their members have facilities they own cooperatively along railroad right-of-ways which they use. She stated that they support Senate Bill 334 and that it would benefit these people to have the option to buy the property first. She requested that clarification language be added.
SEE EXHIBIT 5.

REPRESENTATIVE DON STEPPLER, District 21 stated that he supports Senate Bill 334.

PAM LANGLEY, Montana Grain Elevator Association and the Montana Agricultural Business Association support Senate Bill 334. Elevators and other agricultural business locations on the land leased from the railroad have sizeable investments in buildings on the land they lease.

ROLL CALL

HIGHWAY

COMMITTEE

DATE February 11, 1989

51st

LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
CHAIRMAN TVEIT	✓		
VICE CHAIRMAN MEYER			✓
SENATOR ABRAMS	✓		
SENATOR FARRELL			
SENATOR WEEDING	✓		
SENATOR NOBLE	✓		
SENATOR STIMATZ			✓
SENATOR HARP	✓		
SENATOR WILLIAMS			✓

Each day attach to minutes.

Ben Hawdahl

AMENDMENT TO SENATE BILL 355

Page 11, line 9, sub paragraph (c) and sub paragraph (d) relettering sub paragraph (c) to (e).

(c) The department may authorize a private individual, institution, corporation to administer the written examination and driving examination specified by this section provided the tests are the same which would otherwise be administered by the department and the third party has entered into an agreement with the department which complies with the requirements of 49 C.F.R., part 383.75.

(d) No person, who has been officially trained and certified by the department as a Driver Examiner, who administers any such driving test and no other person, firm or corporation by whom or with which such person is employed or is in any way associated, shall be in any way criminally liable for the administration of such tests, or civilly liable in damages to the person tested or other persons or property unless for gross negligence or willful or wanton injury.

VICE CHAIRMAN MEYER took over the chair.

DISPOSITION OF HOUSE BILL 196

Discussion: SENATOR JACOBSEN will carry the bill.

Amendments and Votes: None

Recommendation and Vote: SENATOR WEEDING MOVED that House Bill 196 BE CONCURRED IN.

MOTION PASSED UNANIMOUSLY.

DISPOSITION OF SENATE JOINT RESOLUTION 9

Discussion: JESSE MUNRO explained the amendments for SJR 9. SEE EXHIBIT 2. The cost of the signs was estimated to be around \$8,000, they have agreed to pay for the signs.

SENATOR NOBLE asked if you designate a highway as a scenic route, if it is true that you can not do repairs.

JESSE MUNRO stated that it is possible for the environmentalists to come in and get that road classified as a letter and number designation. This would mean that if an overlay is needed or if the highway needs to be widened, the Department would be restricted in what they could do.

The Committee decided to postpone execution action on SJR 9 until Thursday, February 16.

DISPOSITION OF SENATE BILL 355

Discussion: SENATOR FARRELL explained the amendments for his bill Senate Bill 355. SEE EXHIBIT 3. The Committee also discussed Ben Havdahl's amendments which were suggested during the hearing for the Motor Carriers Association, as changed by Lee Heiman, Legislative Staffer. SEE EXHIBIT 4.

Amendments and Votes: SENATOR FARRELL MOVED the amendments for Senate Bill 355 (EXHIBIT 3).

MOTION PASSED UNANIMOUSLY.

SENATOR NOBLE MOVED the changed amendments from the Motor Carriers Association (EXHIBIT 4).

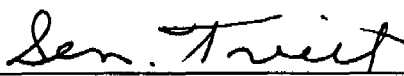
MOTION PASSED UNANIMOUSLY.

Recommendation and Vote: SENATOR NOBLE MOVED that SENATE
BILL 355 DO PASS AS AMENDED.

MOTION PASSED UNANIMOUSLY.

ADJOURNMENT

Adjournment At: 2:30 p.m.



SENATOR LARRY TVEIT, Chairman

LT/pb

senmin.214

SENATE STANDING COMMITTEE REPORT

February 15, 1989

HR. PRESIDENT:

We, your committee on Highways and Transportation, having had under consideration SB 355 (first reading copy -- white), respectfully report that SB 355 be amended and as so amended do pass:

1. Page 3, line 12.

Strike: "of an offense that subjects him to an accumulation of points under 61-11-203 or as provided by"

Insert: "of a serious traffic violation as defined in"

2. Page 9, line 11.

Following: line 10

Insert: "(1)"

3. Page 9.

Following: line 12

Insert: "(2) The department may authorize a private individual, institution, or corporation to administer required driving examinations that would otherwise be administered by the department if they have been officially trained and certified to conduct them by the department and the third party has entered into an agreement with the department that complies with the requirements of 49 C.F.R. part 383.75."

AND AS AMENDED DO PASS

Signed: _____
Larry J. Tveit, Chairman

J.C.
2/15/89
10:00 AM

Amendments to Senate Bill No. 355
First Reading Copy

Requested by Department of Justice
For the Committee on Highways and Transportation

Prepared by Peter Funk
Assistant Attorney General
February 13, 1989

1. Page 3, line 12.

Strike: "of an offense that subjects him to an accumulation of
points under 61-11-203 or as provided by"

Insert: "of a serious traffic violation as defined in"

SENATE HIGHWAYS

EXHIBIT NO. 4

DATE 2-14-89

BILL NO. SB 355
BEN HAVDA

AMENDMENT TO SENATE BILL 355

Page 11, line 9, sub paragraph (c) and sub paragraph (d) relettering sub paragraph (c) to (e).

(c) The department may authorize a private individual, institution, corporation to administer the written examination and driving examination specified by this section provided the tests are the same which would otherwise be administered by the department and the third party has entered into an agreement with the department which complies with the requirements of 49 C.F.R., part 383.75.

(d) No person, who has been officially trained and certified by the department as a Driver Examiner, who administers any such driving test and no other person, firm or corporation by whom or with which such person is employed or is in any way associated, shall be in any way criminally liable for the administration of such tests, or civilly liable in damages to the person tested or other persons or property unless for gross negligence or willful or wanton injury.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON HIGHWAYS AND TRANSPORTATION

Call to Order: By Chairman Stang, on March 14, 1989, at 3:40 p.m.

ROLL CALL

Members Present: All with exception of:

Members Excused: Rep. Harrington and Rep. Steppler

Members Absent: None

Staff Present: Paul Verdon, Researcher
Claudia Johnson, secretary

Announcements/Discussion: None

HEARING ON SENATE BILL 355

Presentation and Opening Statement by Sponsor:

Sen. Farrell, Senate District 31, opened by stating that his bill is comprised of three measures; 1) A cleanup measure on the commercial driver's license bill from last session the Federal Government and Dept. of Transportation had not finalized some of the sections of the rules and stated this bill brings Montana into compliance with those federal rules. Sen. Farrell stated at that time Montana had exempted farmers and the Federal Government did not and at this time the exemption has been put in to clarify what the Federal Government had decided to do and that was to exempt the farmers up to 150 miles along the borders, e.g., a North Dakota farmer could come into the state of Montana within 150 miles from farm headquarters loaded with grain and not have to purchase a commercial driver's license. 2) The Federal Government has lowered the standards on blood alcohol for commercial driver's license only. The blood level for commercial license is .04 compared to .10 for the state of Montana. 3) The definition of a serious traffic violation. Sen. Farrell stated the Dept. has cited a statute that pertains to all drivers and the Federal Government has come up with guidelines, this bill allows the Motor Vehicle Div., Drivers Services Bureau to adopt federal rules under the Montana Administrative Procedure Act. Sen. Farrell stated that this bill will allow the Dept. the flexibility to change or adopt basic rules without having to come back every session.

Sen. Farrell gave a synopsis of two states that have written into their commercial driver's license bills so they can contract with a private corporation, individual or firm to conduct the driving portion only of the test. Sen. Farrell stated this bill pretty much cleans up the commercial driver's license bill and stated if this passes that he would not have to come back before the Committee in years to come.

Testifying Proponents and Who They Represent:

Ben Havdahl, Motor Carriers Assoc.
Duane Tooley, Chief of Driver Services Bureau
Peter Funk, Attorney General's office

Proponent Testimony:

Mr. Havdahl stated the MMCA supports the passage of SB 355, implementing the update requirements on the Commercial Driver's License Program. Mr. Havdahl stated the CDL program when in place in April 1, 1992 by all states will be the most significant program ever adopted to remove the bad truck drivers from the roads. Mr. Havdahl stated this passage represents the culmination of a goal pursued for 30 years: one driver, one license and one record, and stated it will be most effective in returning the industry's drivers image back to being truly "knights of the road". See Exhibit 1.

Mr. Funk gave a synopsis of the different provisions of SB 355 from a legal standpoint because the changes deal with suspensions of driver's license in the commercial context. Mr. Funk went through the bill: On Sec. 2., Mr. Funk stated that if a commercial operator does something that disqualifies them from holding a commercial license that status would be entered on the Federal record keeping system. Mr. Funk stated the bill allows the state of Montana to suspend a license if that driver has been disqualified based on some violation from another state that would not be known in Montana except when the dept. checks that federal system then it would allow the state of Montana to suspend that license. Sec. 3 deals with suspensions for serious traffic violations and has been amended. Mr. Funk stated the federal rule guidelines on what they consider to be a serious traffic violation were not issued at the time the bill was put together, but has been done now by federal rule and have specified particular offenses they consider to be serious traffic violations. Mr. Funk stated that all the time periods for suspension of offenses are mandated by the federal rules. Sec. 4 is designed for a suspension if someone is convicted of a felony involving a controlled substance while driving a commercial vehicle. Mr. Funk stated of all the suspensions this one was probably the most infrequently used. Sec. 5 deals with the suspension of operating a vehicle with a BAC of .04 or more. Mr. Funk

stated in general the bill is designed the same as our existing drinking and driving statutes, the only difference in terms for that level of operation is the BAC level. Sec. 6 deals with the commercial operator to submit to a chemical test to determine the level of the BAC. Mr. Funk stated that sec. 7 is word for word out of the Appeal Right in the implied consent sec. of Motor Vehicle Code, e.g., a driver that faces suspension for BAC has the right to go into court for a hearing. Mr. Funk went on to the exclusion of farm vehicles that drive 150 miles within farm headquarters. Mr. Funk stated this is designed for the farmers that live on the borders of Montana and deliver agriculture products into the state. Mr. Funk stated that all vehicles registered as farm vehicles are exempt from this bill.

Mr. Tooley stated his dept. supports this bill to clean up the commercial licensing procedures. Mr. Tooley stated there would be loss of federal funds if Montana does not comply with these federal rules. Mr. Tooley stated if Montana doesn't comply with licensing these operators under the federal act by April 1, 1992, the operators would not be able to drive in interstate commerce, but felt that Montana would easily be able to have it done by that date.

Testifying Opponents and Who They Represent:

Bob Robinson, Administrator Motor Vehicle Division

Opponent Testimony:

Mr. Robinson stated the amendments that were put on in the Senate on sec. 8, part (2) states that the dept. may authorize third party testers, this will be the first time this has happened in Montana. Mr. Tooley stated that other states that have this in place are having problems with it and they have said if you have not started third party testers don't start. Mr. Tooley stated that large trucking firms or school bus carriers, etc. could have someone employed by their own firms to do the testing and then how would the state know they are in compliance with the state or federal rules. Mr. Tooley stated if they open this up to a single entity they could not stop others from starting it and would lose control.

Questions From Committee Members: Rep. Roth asked Sen. Farrell if there are companies in the state that have authority for third party testers now. Sen. Farrell stated at this time only the Montana Motor Carriers are doing it.

Rep. Roth asked Mr. Robinson if this wouldn't take some of the pressure off of their people if the Motor Carriers get certified and officially trained and enter into an agreement with the Department of Highways so his people wouldn't be so spread out? Mr. Robinson stated there wasn't any doubt that

it would help his dept. out because they only have three commercial motor vehicle testers around the state plus the five district supervisors that are authorized to give the commercial vehicle testing. Mr. Robinson stated it would help, but stated they didn't know how they would maintain quality control if there were third party testers out there.

Rep. Stang asked Mr. Robinson if the Agriculture exemption applied to log truck drivers? Mr. Robinson stated it did not, because when it went to the Federal Government the log truck drivers did not get in there to get logging endorsed.

Rep. Stang asked Mr. Robinson how the driver's license station worked and if it worked out well with the rural areas that have a period of 6 weeks or 6 months to take the test. Mr. Tooley answered stating they had 90 days after an application was made in any county and have not had any problem meeting that schedule.

Mr. Verdon asked Mr. Robinson if he would have to adopt rules of certification on subsection 2? Mr. Robinson said they would and would have to be specific as to what the requirements were of the individuals and what kind of training they would need ahead of time, the tests they would have to pass and also what kinds of up dates they would need on their training and testing, because if the bill is passed as is they would be like the trained motor vehicle testers.

Closing by Sponsor: Sen. Farrell closed stating that he felt there was good discussion and appreciated the Committee listening and hoped he didn't have to come back next session.

EXECUTIVE ACTION:

DISPOSITION OF HOUSE BILL 709

Motion: Rep. O'Connell made the motion to DO PASS.

Discussion: None

Amendments, Discussion, and Votes: None

Recommendation and Vote: Rep. Aafedt called the question. The motion CARRIED unanimously to DO PASS.

DISPOSITION OF SENATE BILL 148

Motion: Rep. Zook moved to take SB 148 off the table.

Discussion: None

Amendments, Discussion, and Votes: None

Motion: Rep. Campbell called the question. Roll call vote was taken. The motion CARRIED 9/6 to BE CONCURRED IN AS AMENDED. Rep. Clark will carry the bill on the floor of the House of Representatives.

DISPOSITION OF SENATE BILL 62

Motion: Rep. Aafedt moved SB 62 to BE CONCURRED IN.

Discussion: Rep. Stang stated this bill is one of the most important bills to be passed for the trucking industry.

Amendments, Discussion, and Votes: None

Recommendation and Vote: Rep. Davis called the question. Roll call vote was taken. The motion CARRIED 13/2 to BE CONCURRED IN. Rep. Stang will carry SB 62 on the floor of the House of Representatives.

DISPOSITION OF SENATE BILL 94

Motion: Rep. Aafedt moved SB 94 to BE CONCURRED IN.

Discussion: None

Amendments, Discussion, and Votes: Rep. Roth moved amendments. Rep. Bachini called the question. All Committee Members voting aye to pass amendments.

Recommendation and Vote: Rep. Campbell called the question. The motion CARRIED unanimously to BE CONCURRED IN AS AMENDED. Rep. Campbell, Rep. Roth and Rep. Zook voted no. Rep. Koehnke will carry the bill on the floor of the House of Representatives.

DISPOSITION OF SENATE BILL 355

Motion: Rep. Aafedt moved SB 355 to BE CONCURRED IN.

Discussion: None

Amendments, Discussion, and Votes: None

Recommendation and Vote: Rep. Campbell called the question. The motion CARRIED unanimously to BE CONCURRED IN. Rep. Campbell and Rep. Bachini voted no. Rep. Stang will carry the bill on the floor of the House of Representatives.

DISPOSITION OF SENATE BILL 389

Motion: Rep. Patterson moved SB 389 to BE CONCURRED IN.

DAILY ROLL CALL

HIGHWAYS AND TRANSPORTATION COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date March 14, 1989

[illegible]

STANDING COMMITTEE REPORT

March 15, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Highways and Transportation report that Senate Bill 355 (third reading copy -- blue) be concurred in .

Signed: _____
Barry Stang, Chairman

[REP. STANG WILL CARRY THIS BILL ON THE HOUSE FLOOR]

EXHIBIT ¹
DATE 72 March 14
SB 355

STATEMENT by MMCA on SB 355

Mr. Chairman, members of the committee. For the record, I'm Ben Havdahl, representing the Montana Motor Carriers Association.

MMCA supports the passage of SB 355, implementing the update requirements on the Commercial Drivers License Program.

The CDL program, when in place by April 1, 1992, by all states will be the most significant program ever adopted to remove the bad truck drivers from the road. It represents the culmination of a goal pursued for 30 years: one driver, one license, one record It will be most effective in returning the industry's drivers image back to being truly "knights of the road".

Under the law, all states will administer written tests on general knowledge and air brakes, including vehicle operations, cargo security, safe driving practices, federal safety regulations and the effects of fatigue and alcohol or drug use.

Endorsements are required to operate double and triple-trailer combinations, tank trucks and any vehicle hauling placarded hazardous materials.

Many, but not all CDL applicants will have to pass a "skills test", an actual driving test in a vehicle provided by the applicant that has cleared a safety inspection. Included in this test is a pre-trip inspection and backing and parking maneuvers, along with open road driving.

At the request of MMCA, the Senate amended SB 355 in Section 8 on page 9, allowing the Department of Motor Vehicles to authorize private testing of the

driving portion of the exam. MMCA is interested in providing safety services to its members. Plans are in the mill to hire on the staff, a professional safety counselor to help members establish a formal safety program. The program has as part of its objectives to help reduce costs of Workers' Compensation Insurance through established effective safety programs of members.

The service would also include administering the driving portion of the CDL program at various member locations around the state, as requested, the safety counselor would be trained and certified by the Department and would be providing a service to the Department as well. We would respectfully ask this committee to support SB 355 as amended by the Senate.

Thank You.

VISITOR
Highways

BILL NO. SB 3554 449

DATE March 14, 1989

SPONSOR _____

(—)

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PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.